

EXHIBIT

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CONFIDENTIAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:17-cv-00854-TDS-LPA

REBECCA KOVALICH and SUZANNE)
NAGELSKI,)
)
Plaintiffs,)
)
vs.)
)
PREFERRED PAIN MANAGEMENT & SPINE)
CARE, P.A., DR. DAVID SPIVEY,)
individually, and SHERRY SPIVEY,)
individually,)
)
Defendants.)
_____)

D E P O S I T I O N

OF

VICKI SWICEGOOD

At Winston-Salem, North Carolina

Friday, August 24, 2018

REPORTER: ELAINE F. HAYES
Notary Public

REED & ASSOCIATES
2401 Whirlaway Court
Matthews, NC 28105
980-339-3575

1 So I said, "Okay, that'll be fine."

2 Q. So when you first started at PPM, did you have a job
3 title?

4 A. If I did, I never knew. I mean, people would refer
5 to me as the office manager. But officially, if it
6 was that, I don't know.

7 Q. Okay. And what all did you do in the beginning?

8 A. Whatever was required. When I walked in, the desk
9 was full. There was no HR files to speak of. I just
10 sort of took -- I looked around to see where they
11 were and what needed to be done, and just whatever I
12 saw that came up, whatever Dr. Spivey might have
13 asked. If he had a particular request, I would do
14 that. It was one of those things that anything that
15 needed to be done that somebody else didn't do.

16 Q. Got you. Did it stay that way the whole time you
17 were there? In other words, that sort of what you
18 just described, was that your whole tenure there or
19 did that change at some point?

20 A. By the time I was there, I was doing HR, I was
21 doing -- I would help with the coding. If there was
22 a problem on the front desk, Annette and I would work
23 out where the problem was, and one of us would handle
24 how to retrain somebody to be more efficient. If
25 there was a problem -- you'd be surprised how many

1 clinical staff. The final okay would always be
2 Dr. Spivey's okay for the clinical staff. But you
3 may have found three or four people in that room
4 interviewing the clinical staff.

5 As far as the support staff, a lot of times I
6 would just interview those and go ahead and hire
7 them.

8 Q. And you made those decisions?

9 A. I would. A lot of times I would go to Suzanne, and I
10 would discuss what their salary -- we would discuss
11 salary and positions and what was needed. But I
12 would defer a lot of my questions to Suzanne on the
13 support side.

14 Q. Okay. Would Dr. Spivey ultimately have to sign off
15 on those hires?

16 A. He did on the clinical staff, on the clinical side.

17 Q. What about on the support side?

18 A. I don't recall.

19 Q. What about Mrs. Spivey, was she involved in
20 interviewing for clinical staff?

21 A. For a long time, no. It was when we lost our -- we
22 only had three nurses. And when we lost two of them
23 in the same Friday afternoon, and they weren't coming
24 back on Monday, Sherry showed up.

25 Q. Roughly when did that happen?

1 A. Oh, gosh, yes.

2 Q. Why do you say that?

3 A. I mean, she kept the lab going. And if there was a
4 problem, that was one of those areas you didn't have
5 to worry about because it was going to be taken care
6 of.

7 Q. And when it comes to running the lab, is that
8 somewhere where Rebecca excels?

9 A. Oh, I would think so.

10 Q. And you would have considered her an asset to PPM?

11 A. Fantastic.

12 Q. The same question, but for Suzanne Nagelski. Do you
13 remember how you first met her?

14 A. I met Suzanne as a little girl.

15 Q. So you've known her for a long time?

16 A. It seems like somewhere -- I couldn't tell you when I
17 met her, but she was a little girl.

18 Q. Did you ever have any issues with her while you
19 worked at PPM?

20 A. I doubt it.

21 Q. Were you aware of other employees that had issues
22 with Suzanne while you were at PPM?

23 A. The only issue that ever came up with Suzanne was
24 Annette and Suzanne may have had some kind of
25 disagreement over the billing. And I'm not -- I

1 didn't ask enough questions because that was between
2 Annette and Suzanne. But Annette did say something
3 about, "I'm not sure what it is that's going on or
4 what I'm supposed to do, or what I'm -- I'm just not
5 sure."

6 And that was -- if there was a problem there,
7 that was the most I ever heard.

8 Q. Okay. Did Suzanne regularly work remotely?

9 A. Yeah.

10 Q. Did other employees work remotely, too?

11 A. No, not remotely. I took work home, but --

12 Q. Well, not just you, but other employees who worked
13 there?

14 A. Not that I am aware.

15 Q. Well, even though she worked remotely, did you --
16 well, strike that. You described her as your
17 supervisor, right?

18 A. I would go to her, directly to her.

19 Q. Were there ever any problems created by her not
20 physically being there?

21 A. No, because I had immediate access.

22 Q. It was very easy to get ahold of her?

23 A. I always got ahold of her. I never -- there was
24 never a time that the call was not answered. I
25 usually got a response to a question within a very

1 who I was.

2 Gosh, there was just so much laying on the
3 desk. I couldn't tell you now. I just remember
4 there was a lot of things that needed to be handled.

5 Q. So when you got there, from what you can remember at
6 PPM, there were maybe three to four personnel files.

7 A. Uh-huh.

8 Q. Is that right?

9 A. Uh-huh.

10 Q. Is that a yes?

11 A. Yes, yes.

12 Q. And at that point, did you have employees that were
13 there at PPM that had no personnel file?

14 A. What I found was like an application, applications.
15 There was a drawer, three or four files with a name
16 on them. But there was a lot of paperwork,
17 applications, resumes. There was just a drawer. And
18 so basically, you took everything out of the drawer.

19 I identified who was working there, made the
20 files, put the resumes somewhere. I don't know. But
21 you just cleaned out the drawer to make it something
22 that you could find. And then started creating their
23 files.

24 Q. And can you recall any of the names of the employees
25 that you created their HR files?

1 supervised, total number of employees?

2 A. The only supervision I had would be of
3 those -- direct supervision would have been those
4 five. Wait. I forgot Greensboro. I actually did
5 supervise the two on the front desk in Greensboro. I
6 forgot those. So five, six, seven. And what was
7 your question?

8 Q. So I was trying to clarify the total number of
9 employees that you supervised throughout the two and
10 a half years.

11 A. Five to seven.

12 Q. That was the total, or at one time you were
13 supervising five?

14 A. These would -- that would be at one time.

15 Q. At one time?

16 A. Yeah.

17 Q. Can you think of the number of employees that you
18 supervised during your total two and a half years at
19 PPM, with people coming in and out, the total number?

20 A. The total number? Oh, the total with the ones that
21 came in? The number of people that -- I would have
22 no idea.

23 Q. Would you say it was more than 10 people?

24 A. I'd say 10, 11.

25 Q. And you'd also testified earlier -- you made a

1 general statement, "By the time I was there, I was
2 doing HR." What does that entail, if you can
3 remember, HR?

4 A. HR, I would keep the files. I would interview. I
5 did reviews, listened to a lot of he said/she said,
6 "I don't like this," complaints, arguing.

7 Q. Was it normal for PPM employees to bring their
8 complaints to you?

9 A. A lot of times.

10 Q. Can you remember any of those complaints?

11 A. "So-and-so is not doing -- they're not carrying their
12 weight."

13 "Okay. Tell me what it is that they're not
14 doing, not just that they're not carrying their
15 weight." That was a big one.

16 "This person is on her cell phone all the
17 time. We can't get anything done listening to her be
18 on the cell phone all the time." Those are the ones
19 I really recall.

20 Q. So would you categorize those complaints as typical,
21 everyday --

22 A. Typical.

23 Q. -- employee complaints to HR?

24 A. Uh-huh.

25 Q. Is that a yes?

1 Q. Okay. Back to one of my earlier questions I had
2 asked you. You testified, "By the time I was there I
3 was doing HR." And so we just talked a little bit
4 about some of the counselings that you were involved
5 in.

6 A. Uh-huh.

7 Q. What about terminations? Were you involved in any
8 terminations during your time at PPM?

9 A. Oh, yeah.

10 Q. Tell me about that.

11 A. There was a problem and we couldn't rectify it or
12 make things a little bit -- to work out. I do know
13 that there were some people that I did let go. And
14 don't ask me today their names. I do not recall
15 their names. But that did happen.

16 Q. Can you recall anyone's name that you were involved
17 in their termination at PPM?

18 A. Not at this time.

19 Q. The terminations that you were involved in while you
20 were at PPM, would that have included employees
21 working at the front desk?

22 A. Uh-huh.

23 Q. Yes?

24 A. If that was -- if it was necessary. Now, at the
25 front desk, there was one person, and I could not

1 tell you who she was. I can see her sitting there in
2 the old building. Seem like that was a termination,
3 but I couldn't tell you why.

4 Q. So at this point you recall terminating someone that
5 was at the front desk, but you cannot --

6 A. I would have --

7 Q. -- recall the name?

8 A. I would have to have the personnel files to go
9 through to get that kind of stuff.

10 Q. Now, for that employee specifically, would you have
11 documented in their personnel --

12 A. Yes.

13 Q. And I'm just going to say, because it's really tough
14 for the court --

15 A. Oh, yes.

16 Q. It's tough for the court reporter to dictate what we
17 are both saying at the same time. So I know some of
18 my questions are really long, but if you'll just
19 allow me to get the whole question out before you
20 answer, I'd appreciate that, because I want to make
21 sure that, you know, everything that you have to say
22 is recorded as well.

23 For any employees that you were involved in
24 their termination, would you have noted that in their
25 personnel file?

1 A. Yes.

2 Q. Do you remember how you would have noted that in
3 their personnel file?

4 A. I think there was -- if I recall, I had some forms,
5 something about their reviews, and on there it
6 was -- there was a place that had something to do
7 with maybe termination. And I would have used that
8 form.

9 Q. How did you get this form?

10 A. I don't know if it was one I brought from a previous
11 office. Was it something Suzanne gave me or was it
12 already there? I have no idea now.

13 Q. But you do recall some type of termination --

14 A. I did -- I did have a form. I'm sorry.

15 Q. That's okay. So you do recall having some type of
16 termination form that you would include in an
17 employee's personnel file?

18 A. Yes.

19 Q. And do you remember if you would cite the reasons for
20 their termination on the form?

21 A. Always.

22 Q. And you would sign your name on that termination
23 form?

24 A. Yes.

25 Q. You testified earlier -- Mr. Herrmann had asked you,

1 Q. Do you still maintain a friendship with Rebecca
2 today?

3 A. Yes.

4 Q. Tell me about that.

5 A. Oh, we have dinner usually about once a month or so
6 together. And occasionally, I have gone to see her
7 at her place at the Isle of Palms.

8 Q. And that's a house that Ms. Kovalich owns down at
9 Isle of Palms?

10 A. Uh-huh. Right.

11 Q. And would you consider yourself still to be friends
12 to this day?

13 A. Yes.

14 MS. GOFORTH: I'd like to take a short break.

15 (Recess from 12:16 p.m. to 12:23 p.m.)

16 By Ms. Goforth:

17 Q. Vicki, just a couple more questions. How did you
18 come to learn about this lawsuit?

19 A. I'm not sure about the very first time I have known
20 about it. But what I read was in that -- there is a
21 Triad Magazine. And I think I got two or three calls
22 about, "Did you see the Triad Magazine?" Or somebody
23 had called somebody, and somebody else called. And
24 so it went through several people like that. But
25 there was an article in this Triad Magazine.

1 Q. And were you the PPM employee that would reach out to
2 Salem Solutions about hiring or ending a temporary
3 staff employee's placement?

4 A. Most of the time, yeah.

5 MS. GOFORTH: No further questions.

6 (The taking of the foregoing deposition was
7 concluded at 12:31 p.m. on Friday, August 24,
8 2018. Signature was reserved.)

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